



# **CITY OF GLENDALE GLENDALE WATER & POWER**

## **Request for Proposals Owner's Engineer for Solar + Storage Development of City of Glendale Properties and Distributed Energy Resources Penetration Impact Studies**

<b>DATE ISSUED:</b>	<b>SEPTEMBER 3, 2020</b>
<b>PROPOSAL DEADLINE:</b>	<b>OCTOBER 21, 2020 5:00PM PST</b>

## REQUEST FOR PROPOSALS

### Owner's Engineer for Solar + Storage Development of City of Glendale Properties

The City of Glendale, through its utility department, Glendale Water & Power ("City" or "GWP"), seeks proposals from qualified firms to provide Owner's Engineering services to assist the City with a master plan for developing solar and battery energy storage facilities on City-owned properties in the City of Glendale. The required services and performance conditions are described in the Scope of Work. In the preparation of this Request for Proposals (RFP), the words "Proposer," "Contractor," "Consultant," and "Firm" are used interchangeably.

Proposers are solely responsible for ensuring proposals are received by GWP on or before the submittal deadline. All required forms of the Proposal must be received no later than 5:00 PPT on October 21, 2020 (the "Proposal Deadline"), at the following address and email address:

Glendale Water & Power  
ATTN: Catherine Babakhanlou, Senior Electrical Engineer  
Bryan Salazar, Administrative Analyst  
RE: Solar & Storage Development of City of Glendale Properties Proposal  
141 N. Glendale Ave., Suite 420  
Glendale, CA 91206-4975  
[cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov)  
[bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov)

Proposers shall submit:

1. A sealed envelope or box with the name of the Proposer and the RFP Title clearly marked on the outside of the package. The package shall contain an original signed proposal (signed by a representative authorized to bind the Proposer) and two (2) duplicates.
2. Proposal via email to Bryan Salazar at [BSalazar@Glendaleca.gov](mailto:BSalazar@Glendaleca.gov) in PDF format. Faxes or any electronic media other than PDF are not acceptable.

Proposals may be e-mailed in PDF format to [cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov) and [bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov) to meet the Proposal Deadline, but must be followed-up by one original and two (2) hard copies which must be received by at the above address no later than 24 hours of the Proposal Deadline date and time. Proposers are advised that City offices may be closed for in-person deliveries due to the pandemic, and must plan accordingly. One of the two (2) hard copies must be delivered in unbound form. Proposals must be submitted on double-sided and recycled paper wherever possible.

Failure to comply with the requirements set forth in this RFP may result in disqualification. Proposals and/or modifications received subsequent to the hour and date specified above will not be accepted. The responding Proposer is solely responsible for all costs incurred in responding to this RFP.

GWP reserves the right to reject all proposals and to waive any minor informalities or irregularities contained in any proposal.

The contract award, if any, will be made to the Proposer who, in GWP's sole discretion, is best able to perform the required services in a manner most beneficial to GWP.

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## 1.0 Objective

GWP seeks to retain a qualified owner's engineer to assist the City with a conceptual plan and preparation of specifications for developing solar and battery energy storage facilities on City-owned properties in the City of Glendale. The Scope of Work, as detailed in Section 3, includes identifying viable City-owned sites for solar and storage assets, determining the requirements for development of such sites, preparing a schedule, plan and engineer's estimate for the development, and preparing technical requirements and specifications suitable to be included in one or more Requests for Proposals that will be issued in the future to retain an Engineer, Procure and Construct (EPC) contractor to develop such sites. In addition, the Scope of Work includes an initial and quarterly (or as needed) analysis of the Distributed Energy Resources penetration impact on GWP's distribution system, its reliability, and operation.

## 2.0 Overview of the Utility

Glendale is a municipal corporation existing under the laws of the State of California, which owns and operates an electric public utility (Glendale Water and Power or GWP) for its citizens, and provides electric service to virtually all of the electric customers within its limits. Glendale, which encompasses approximately thirty-one square miles, is the third largest city in Los Angeles County, and is located approximately seven miles north of the Los Angeles Civic Center. GWP'S annual retail electric load obligation is approximately 1.45 million MWh, serving nearly 89,000 electric customers.

GWP's mission is to provide clean, reliable, and affordable power to the diverse citizens and business of Glendale 24 hours per day, 365 days per year. This objective is currently met with a portfolio of demand-side and supply-side resources. Supply-side resources include local gas-fired generation from the aging Grayson Power Plant, local distributed solar generation, distant coal-fired, hydro, nuclear and renewable energy supplies, and a portfolio of transmission ownership rights and long-term transmission lease rights. GWP operates within the Balancing Area of the Los Angeles Department of Water and Power (LADWP) under a Balancing Authority Area Services Agreement (BAASA) with LADWP. Glendale is forging a leadership position in the acquisition of renewable energy and carbon allowances in both the short term and long term markets.

GWP is faced with the imminent retirement of its largest generation resource, the natural gas-fired Grayson Power Plant (Grayson), located within the City's boundaries. GWP is extremely transmission constrained, and must replace the retiring Grayson units with reliable local generation. The retirement of the Grayson Power Plant presents GWP with a unique opportunity to shift to cleaner, more efficient technology to power the City in the future.

Per the City Council's direction, GWP is evaluating the potential for developing City-owned solar and storage facilities on City properties in the City of Glendale, including parking structures, buildings, and reservoirs. GWP seeks to retain a consultant to assist the City with the development of a comprehensive plan for the City of Glendale develop, own, operate and maintain solar and storage on City-owned sites in the City of Glendale.

## 2.1 Background

In 2015, GWP embarked on a plan to repower its Grayson Power Plant with a 262 MW repowered, natural gas power plant. In 2018, the City Council directed GWP to issue an RFP seeking clean

energy alternatives to the proposed repowering. In 2019, the City Council approved the 2019 Integrated Resource Plan and authorized GWP to proceed with the limited notice to proceed phase for a proposed, smaller-scale alternative repowering of the Grayson Power Plant. The alternative repowering would repower most of the Grayson Power Plant with 93 MW of Wartsila Internal Combustion Engines (5x18.8 MW) and a 50 MW Tesla Battery Energy Storage System (BESS), to be scaled up to a 75 MW BESS in the future. The remainder of the City's load would be met through other existing resources and 40 MW to 50 MW of proposed new distributed energy resources, customer-side demand management, and energy efficiency programs.

Per the City Council's direction, GWP seeks to develop a conceptual plan for the development of solar and storage assets on City-owned properties in the City of Glendale. For purposes of this RFP, the focus is on City of Glendale-owned properties, which may include, but are not limited to, buildings, parking structures, parking lots and reservoirs. The solar and storage facilities, solar output, and environmental attributes from such facilities will be owned by the City of Glendale.

## **3.0 Scope of Work**

### **Site Assessment and Conceptual Plan**

GWP seeks to retain a qualified owner's engineer to assist the City with a conceptual plan and preparation of specifications for developing solar and battery energy storage facilities on City-owned properties in the City of Glendale.

- Identify and evaluate potential City-owned sites for solar and storage development. The City will provide a list of potential sites for the Consultant's consideration. GWP does not warrant that such sites may be developed; it will be the responsibility of Consultant to investigate and evaluate such sites to determine their feasibility for solar and storage development;
- Identify the requirements, any constraints, and considerations that the City must take into account in the development of such sites, including: reliability standards promulgated by the WECC and NERC, requirements for operation within the Balancing Area of the LADWP, renewables portfolio standard (RPS) and greenhouse gas (GHG) compliance, California Environmental Quality Act compliance, and distribution system limitations;
- Determine the optimal configuration and size of such proposed facilities;
- Develop cost estimates, prepare a proposed schedule and phasing plan for the development;
- provide recommendations regarding the maintenance of the facilities;
- prepare technical specifications that can be used by the City to solicit proposals for one or more Engineer, Procure, and Construct (EPC) contractors to develop such sites.

The site evaluations, PV and battery energy storage system designs, recommendations, and work product developed under the Contract will become the property of the City and may be incorporated into subsequent RFPs or bids to select one or more EPC contractor(s) to develop the PV and battery storage systems.

### **DER Penetration Impact Analysis**

GWP anticipates its current capacity of Distributed Energy Resources (DER) to increase in the next few years. The DERs will be mostly photovoltaic (PV) solar and battery storage types. Due to the characteristics of solar power production, this expansion will have several types of potential impact on GWP's distribution system, its reliability, and operation.

GWP is requesting the services of a highly qualified Owner's Engineer to help with the following on a quarterly or on an as needed basis:

- Conduct an initial study assessing the current level of DER penetration and identify feeders with potential future DER growth. Recommend corresponding distribution system upgrades.
- Provide a roadmap for future resource decisions, covering issues with future renewable additions, landfill gas generation, Virtual Power plant (VPP) and storages.
- Conduct a distributed solar penetration analysis on GWP's distribution system based on established methodologies adopted by the National Renewable Energy Laboratory ("NREL").
- Conduct an analysis to identify the locations of rooftops in GWP's service territory with potential of generating power in excess of 200 kW.
- Conduct a DER hosting capacity analysis for each GWP feeder. Confirm the feeder hosting capacity by distribution modeling of the entire GWP system.
- Perform an interconnection analysis for any large scale PV DER interconnection request.

Assess the impact of DER on the feeders.

- Assess the impact of DER on the protection system.
- Assess the cumulative steady state and protection coordination dynamic impact of PV DER from all feeders connected to the same substation bus as needed when feeder PV DER penetrations increase.
- Conduct a reverse power flow analysis when needed.
- Conduct detailed flicker assessment for large DERs when needed.

- Conduct a System Impact Analysis (SIA) for each proposed DER request and identify system improvement needs.
- Provide training and work with GWP staff throughout the DER Penetration Impact Analysis to share methods used to determine conclusions.

### **3.1 Detail on Scope of Services to be Provided by the Contractor**

This RFP is for a PV system site survey and conceptual design for City-owned and operated rooftop PV systems on City-owned buildings. The Contractor shall provide conceptual designs for PV systems for City-owned buildings to deliver PV-generated electricity to the Sites hosting the PV systems including battery storage where applicable and delivering the excess generation into the electric utility's distribution system. In addition, the contractor shall assess the impact of the proposed DER on the distribution feeder.

The City expects that PV system site surveys and designs will be conducted on all feasible Host Sites identified in the list of possible sites for the Consultant's consideration. To ensure the constructability and viability of rooftop PV system installations at the identified Host Sites, the Contractor shall conduct preliminary structural, spatial and electrical assessments and gather information on roof material, age, and warranty information.

For the site surveys and conceptual designs for the PV systems at each Host Site, the Contractor will, at a minimum, provide all of the services described below. All engineering and design work must be performed by qualified staff that meets the license and experience requirements listed in Section 4 of this RFP.

### **3.2 Site Identification**

The Contractor shall identify potential city owned sites within the City of Glendale that are suitable for solar plus storage development. The City will provide a list of possible sites for the Consultant's consideration. GWP has compiled a list of potential sites will be made available to Interested Proposers upon execution and submission of the Non-Disclosure Agreement attached as Attachment C to this RFP. GWP does not warrant that such sites may be developed; it will be the responsibility of Consultant to investigate and evaluate such sites to determine their feasibility for solar and storage development. Consultant may propose the development of City-owned sites that are not included on the City's list of possible sites.

### **3.3 Site Availability**

The Contractor shall work with Glendale Water & Power staff to confirm ownership and any easements, etc. on any proposed sites. The Contractor shall determine and report on any constraints to develop PV systems and storage systems at each site.

### **3.4 Site Development**

The Contractor shall determine the optimal PV system and/or battery energy storage size and configuration for each site and the Contractor shall determine and report on any constraints to develop PV systems at each site. In addition, the Contractor shall identify procedural and



substantive requirements for development, including permitting, CEQA regulations, upgrades to GWP's distribution system, etc.

### **3.5 Site Surveys**

The Contractor shall conduct a survey to allow site-specific design plans to be formulated. The site survey shall include, but not be limited to, the following:

### **3.6 Structural Engineering Review**

The Contractor shall perform a structural assessment of each roof and the affected areas of each building to ensure adequate support for the additional loading imposed by the PV system, including staging areas on the roof for equipment and system components, and the wind loading the may accumulate on the PV system. The Structural Engineering Review shall include the structural engineer's confirmation that the roof and the structure upon which the PV system will be placed are adequate to accommodate the dead and live loads of the PV system. The Structural Engineering Review shall result in a Structural Report, which shall be submitted to the City upon completion of the Structural Engineering Review, separate from and in advance of the entire Final Design submission. The City will provide the Contractor with written acceptance of the Structural Report or notify the Contractor, in writing, that the Host Site has been eliminated for PV installation based on the conclusions in the Structural Report.

### **3.7 Electrical Engineering Review**

For each Host Site, the Contractor shall assess its proposed interconnection along with the building's electrical distribution system to ensure that the proposed PV system may be interconnected in a safe and code compliant manner. The Contractor shall assume that the PV system installation will interconnect at the building's main distribution panel.

### **3.8 Technical Specifications**

The Contractor shall develop technical specifications that can be issued with a RFP for an EPC Contractor to develop the sites. Technical specifications are to include engineering estimates for the development and interconnection of each site, including the identification of any opportunities for value engineering.

### **3.9 Development Schedule**

Upon the City's request, the Contractor shall develop proposed schedules / phases / plan for development of the sites overall and for each site.

### **3.10 Deliverables**

Report for GWP identifying sites and provide the above information for each site as outlined in section 3.0 Scope of Work – Site Assessment and Conceptual Plan.

PV System site ranking list based on highest PV potential compared to estimated installation cost (highest ROI).

Initial and quarterly report as needed as outlined in section 3.0 Scope of Work – DER Penetration Impact Analysis.

### **3.11 Proposed Schedule**

GWP prefers that the SOW for the Site Assessment and Conceptual Plan be completed no later than June 30, 2021. However, GWP will rely on the Proposer to specify a realistic schedule for the project, and will consider the proposed schedule as part of GWP's selection process.

GWP prefers that the SOW for the initial DER Penetration Impact Analysis will be completed no later than June 30, 2021 and updated quarterly or on an as needed basis for a minimum of four (4) years from the commencement of the contract.

Proposers should submit proposals for the services with sufficient detail that a complete and accurate evaluation can be completed in accordance with the project schedule.

The site evaluations, PV and battery energy storage system designs, recommendations, and work product developed under the Contract will become the property of the City and may be incorporated into subsequent RFPs or bids to select one or more EPC contractor(s) to develop the PV and battery storage systems.

## **4.0 Subcontractors**

Proposers may submit plans (a) to rely on a combination of employees and subcontractors or (b) to conduct all phases of work in-house. If reliance on any subcontractors is expected or planned, proposals must include the identification of all such subcontractors, name, business address, and (where applicable), licenses held, and all subcontractors must explicitly agree to comply with all terms and conditions of this RFP.

## **5.0 Minimum Qualifications**

Proposals must present experience in these matters and in the engineering and development of solar and storage facilities. At a minimum, the proposer must provide evidence of having provided services for three (3) examples of site surveys and designs of PV-generated and battery storage projects and two (2) examples of DER penetration impact studies that the proposer has completed on previous projects similar to those outlined in the Scope of Work within the past five (5) years. Qualifications should include a description of relevant projects that the respondent has successfully completed along with details of the services provided and at least three professional references. The details of the completed project examples shall encompass a range of scope and complexity, from low to high, to demonstrate the proposer's broad range of experience in the design and construction of PV systems and System Impact Studies. For each reference, the evidence must include the name of the client, the dates of the project, a short description (no more than one page) of the work performed, and a contact name, phone number and email address for the reference.

Additionally, the proposer must hold the following licenses:  
C-46 Solar Contractor's License  
Professional Engineer

## Structural Engineer

Proposals not containing qualifying references may be disqualified.

## 6.0 Milestones for the RFP

Following are the key anticipated dates of this RFP, its Award, and the initiation of the Project. Certain dates, particularly the date of City Council award, are subject to change.

Event	Date
Issue RFP	September 3, 2020
Last Day to Submit Questions re RFP	October 7, 2020
Proposal Deadline	October 21, 2020
Interviews Held	November 2-6, 2020
Select Consultant	November 9-13, 2020
Negotiate Professional Services Agreement (PSA)	November 16-20, 2020
Award Approved by City Council	December 15-29, 2020
Execute Professional Services Agreement	Immediately following City Council award
Commence Work under the PSA	Immediately following contract execution

Prospective Proposers who are interested in receiving proposal updates, addenda, and Q&A must register as an Interested Proposer by emailing [cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov). See Section 8.0 of this RFP for additional details.

## 7.0 Proposal Format

Briefly describe the services you are prepared to provide to fully meet the needs of GWP as described in this RFP. To facilitate evaluation, all proposals must be organized in the following sections:

### **Section 1.0 Letter of Transmittal**, including the following information:

Name of Proposing Entity:

Address:

Telephone:

Fax:

Name and title of contact person:

E-mail address of contact person:

Mobile number for contact person:

Federal tax identification number:

In accordance with the City of Glendale's Campaign Finance Disclosure Ordinance (Ord. No. 5744), please provide the names and business addresses of members of the Board of Directors, the Chairperson, CEO, COO, CFO, subcontractors or any other person with more than a ten percent (10%) interest in the proposer's company.

### **Section 2.0 History of the Firm**, including any Subcontractors

<b>Section 3.0</b>	<b>General Experience of the Firm</b>
<b>Section 4.0</b>	<b>Project Team and Essential Personnel</b>
<b>Section 5.0</b>	<b>Work Plan and Schedule</b>
<b>Section 6.0</b>	<b>Proposal Pricing</b>
<b>Section 7.0</b>	<b>Contract Terms</b>

The following subsections provide additional detail on some basic elements of the proposal.

## **7.1 Experience of the Firm (Proposal §3.0)**

Provide a description of similar relevant work performed and contact information for a minimum of three (3) recent references. References from utilities and other local governments are especially relevant.

## **7.2 Project Team and Essential Personnel (Proposal §4.0)**

Provide a description of the project team including any subcontractors. Provide names and backgrounds of essential individuals who will be working on this Project and the percentage of their time that will be dedicated to the project. Provide specific information, including:

- 1) Details of the experience for the Project Manager(s) and other essential personnel that qualify them for this project. Include project descriptions, the individuals' specific roles, and references (including names and contact information) for the most recent or most relevant qualifying experience.
- 2) A project organization chart.
- 3) The location of relevant staff and the percentage of time they are expected to be physically working in Glendale.
- 4) License(s) held by the firm and any subcontractors.

## **7.3 Work Plan and Schedule (Proposal §5.0)**

As described for the scope of work in Section 3, provide descriptions of how each work task would be performed, the approach, staffing, schedule, interaction with GWP, and other elements so GWP can fairly anticipate the how, what, and when the Proposer would deliver.

## **7.4 Proposal Pricing (Proposal §6.0)**

As described for the scope of work tasks in Section 3, provide lump sum pricing for each task and the overall scope of work.

Provide hourly rates for all proposed personnel and any markup on subcontractors and expenses. Provide estimated hours for each task included in the proposal. The stated pricing and rates must include administration, the hourly cost of labor, materials, anticipated travel and lodging, other anticipated non-personnel costs for the project, and any applicable taxes. Payment will be made upon invoice for deliverables accepted.

## **7.5 Contract Terms (Proposal §7.0)**

The City's Professional Services Agreement (PSA) is Attachment A to this RFP. All proposers must explicitly indicate any exceptions to the City of Glendale's standard PSA terms and conditions, including insurance and indemnification. Proposers are advised that if such exceptions are found by the City to be unacceptable, the proposal may be rejected on that basis alone. Some terms of the standard PSA are non-negotiable due to City Ordinances, State laws, and/or City policies.

## **7.6 Insurance and Indemnification Requirements**

Indemnification requirements are set forth in Attachment B to this RFP. These requirements will be incorporated into the PSA. Upon award of the contract, insurance documentation in a form acceptable to the City Attorney or City Risk Manager must be submitted no later than ten (10) business days after Notice of Award of Contract, and prior to the City of Glendale's execution of the Agreement.

## **7.7 Additional Information**

Proposers may provide additional information that is relevant to this proposal for consideration, but not identified herein. Any such additional information must be limited to a maximum of two pages.

## **8.0 Interested Proposer Registration; Questions Re RFP**

"Interested Proposers" are engineering firms who have contacted the City via the email address above to register their potential interest in submitting a proposal in accordance with these instructions, and meet the following criteria. "Interested Proposers" must submit the following information: (1) a statement of interest in submitting a proposal; (2) contact information for the City to send information regarding this RFP; (3) information establishing the firm has served as owner's engineer or developer for at least three prior projects on the scope and scale of the proposed project; (4) a signed Nondisclosure Agreement in the form attached as Attachment C to this RFP.

Interested Proposers may submit any questions pertaining to this RFP in writing no later than October 7, 2020, at 5:00 p.m. Pacific Prevailing Time to [cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov). Please insert "GWP RFP 2020 – City of Glendale Solar + Storage Development Project" as the subject line of the e-mail. Questions submitted without this subject line may not receive timely responses. Questions submitted via any other method (i.e., orally, by phone) will not receive a response. Please do not contact any City Official or any other City staff during this selection process regarding this RFP or your proposal. Written answers as necessary will be provided in anonymous format to all Interested Proposers. Proposers are cautioned not to rely on responses to RFP questions submitted to, or provided by, any other source.

## **9.0 Non-Appropriation of Funds**

The continuation of any executed PSA into a new fiscal year (i.e., beyond July 1, 2021) is contingent upon the appropriation of funds by City Council to fulfill the requirements of the contract. If the City, after a diligent and good faith effort, fails to appropriate sufficient monies to provide for payments under the contract, the obligation to make payment under the contract shall terminate on the last day of the fiscal year for which funds were appropriated (e.g., June 30, 2021).

Therefore, it is imperative that invoices be submitted within a timely basis and for the fiscal year the work was performed. Task orders will be structured so that they do not overlap fiscal years.

## 10.0 Budgeted Funds

Notwithstanding anything to the contrary in the Agreement, the parties agree that the maximum amount payable under the Agreement shall be that amount which is approved by the City for the project. In the event the total amount of the PSA is increased by reason of additional quantities or any other reason, so as to exceed the amount budgeted and approved, the parties agree that the City shall not be liable for the amount of such increase until and unless said budget is amended as provided by the City and funding approved to allow for such an increased amount.

## 11.0 Submittal of Proposals

Please provide one original and two (2) hardcopies of your proposal plus one Adobe pdf copy, all addressed to:

Catherine Babakhanlou, Senior Electrical Engineer  
Bryan Salazar, Administrative Analyst  
Glendale Water & Power  
141 North Glendale Avenue, Suite 420  
Glendale, California 91206  
[cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov)  
[bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov)

Proposals must be received no later than the Proposal Deadline at 5:00 PM Pacific Prevailing Time. Late proposals will not be accepted.

Proposals may be e-mailed in PDF format to [cbabakhanlou@glendaleca.gov](mailto:cbabakhanlou@glendaleca.gov) and [bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov) to meet the deadline, but must be followed-up by one original and two (2) hard copies that must be received at the above location within 24 hours of the deadline date and time. One of the two (2) hard copies must be delivered in unbound form. Proposals must be submitted on double-sided and recycled paper wherever possible. Proposers are advised that due to the pandemic, City offices may be closed for in-person deliveries. Firms mailing or shipping their proposals must allow sufficient delivery time to ensure timely receipt of their proposals by the time specified.

Proposals must be defined as firm offers that are valid for a period of at least 90 calendar days from the Proposal deadline.

## 12.0 Evaluation

Proposals will be reviewed by an evaluation committee after the submission deadline has passed. The City may, but shall not be required to, solicit additional information, orally or in writing, from one or more of the proposers relating to the content of their proposal(s). The City may, but shall not be required to, meet with one or more of the proposers prior to a preliminary selection of one or more applicants with which the City may choose to negotiate.

## 12.1 Selection Process

Proposals received by the City will be reviewed and evaluated according to the following system:

- |   |     |
|---|-----|
| 1. Approach and understanding of the RFP's requirements | 30% |
| 2. Qualifications and experience                        | 30% |
| 3. Overall cost   | 30% |
| 4. Compliance with City's contracting requirements      | 10% |

Proposers may, in the City's discretion, be requested to attend a final interview. Such interview may be conducted at GWP's offices, Proposer's offices, or via teleconference as determined by the City. The final selection will be based on the proposal that provides the best overall match to the RFP requirements and that best serves the interest of GWP and the City.

As mentioned in Section 5. Minimum Qualifications, proposals shall include three (3) examples of site surveys and designs of PV-generated and battery storage projects and two (2) examples of DER penetration impact studies that the proposer has completed on previous projects. The examples shall encompass a range of scope and complexity, from low to high, to demonstrate the proposer's broad range of experience in the design and construction of PV systems and battery storage projects and System Impact Studies.

## 12.2 Proposer's Examination of Proposal Documents

The submission of a proposal indicates that the Proposer:

1. Understands and acknowledges the information that was provided by GWP to serve as the basis for submission of their proposal.
2. Has the capability to successfully undertake and complete the responsibilities and obligations of their proposal.
3. Represents that all information contained in their proposal is true and correct.
4. Did not collude, conspire to agree, directly or indirectly, with any person, firm, corporation, or other Proposer in regard to the amount, terms, or conditions of their proposal.
5. Acknowledges that GWP has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by the Proposer, Proposer hereby grants GWP permission to make these inquiries, and Proposer agrees to provide any and all related documentation in a timely manner.

No request for modification of the proposal shall be considered after its submission on grounds that Proposer was not fully informed of any fact or condition.

## 12.3 Reservation of Rights

GWP reserves all rights with respect to this RFP, including but not limited to the rights, in its sole discretion, to:

- Make the selection based on its sole discretion.
- Reject any or all the proposals, or any item of a proposal, whether such proposals are responsive or nonresponsive, and without further obligation or reimbursement to the Proposer(s).

- Award all or any individual part/item of a Proposal.
- Purchase all or fewer than all items or quantities of each item(s) specified in a Proposal.
- Make a partial award or award different components of the project to different proposers.
- Modify this RFP.
- Cancel or withdraw this RFP.
- Issue subsequent or new RFPs.
- Postpone opening proposals for its own convenience.
- Remedy errors in the RFP process.
- Approve or disapprove the use of particular sub-consultants.
- Solicit additional information, orally or in writing, from one or more of the proposers relating to the content of their proposal(s).
- Meet with one or more of the proposers at any time, including prior to a preliminary section of one or more applicants with which the City may choose to negotiate.
- Negotiate price or Scope of Work with any Proposer, all Proposers, or none of the Proposers at any time after receipt of the proposals.
- Negotiate provisions in addition to those stipulated in this RFP or proposed by a Proposer for the purpose of obtaining the best possible proposal.
- Accept other than the lowest offer.
- Waive irregularities in any submittal if that is determined to be the best interest of the City.
- Waive any information or technical defects, as the interests of the City may require.
- Require a Proposer to provide a guarantee (or guarantees) of the contract by a third party.
- Terminate negotiations if City determines termination is in its best interests.
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with GWP.

An agreement shall not be binding or valid with GWP unless and until it is approved by the Glendale City Council, if so required, and executed by authorized representatives of the City and of the Proposer.

## **13.0 Addenda to the RFP**

The City reserves the right to revise the RFP and/or to issue addenda to the RFP. The City also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract. During the proposal period, the City may advise all Interested Proposers by addenda of additions, deletions, or alterations in the proposal guidelines. All addenda shall be acknowledged in the proposals. The addenda shall become a part of these proposal guidelines as if originally included therein.

## **14.0 No Obligation to Contract**

This RFP does not obligate the City to contract for services specified herein. Acceptance of any proposal submitted pursuant to this RFP shall not constitute any implied intent to enter into a contract. This RFP does not commit GWP to enter into a contract, nor does it obligate GWP to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract.

## **15.0 Use of Vendor Proposal and Accompanying Material**

All material submitted in response to this RFP becomes the property of the City of Glendale and will not be returned to the vendor unless explicitly requested and agreed. Submitted proposals may



be reviewed and/or evaluated by persons internal or external to the City at the discretion of the City.

## **16.0 Proposal Preparation Costs and Expenses**

The City will not be liable for any costs incurred by the Proposer in responding to the RFP, making presentations to the City, or any other activities related to responding to this RFP proposal and/or expenses associated with presentations.

## **17.0 Form of Agreement**

The contents of this RFP, RFP Addenda, and the proposal document of the successful proposer shall become contractual obligations as part of the contract if acquisition action ensues. Failure of successful proposer to accept these obligations in a contractual agreement shall result in the cancellation of the award. The City reserves the right to negotiate provisions in addition to those stipulated in this RFP or proposed by proposer for the purpose of obtaining the best possible proposal. The proposed Professional Services Agreement ("PSA") is included in Attachment A to this RFP.

## **18.0 Public Records Act**

All responses to this RFP will become the property of the City of Glendale and will be retained or disposed of accordingly. Proposals will be kept confidential until such time as the City has completed its review process. At the conclusion of the City's evaluation, and prior to the City's recommendation of an award to Council, Interested Proposers will be allowed to inspect all proposals received at the City's offices. This date of inspection will occur before the recommendation is considered by Council. At the conclusion of the City's evaluation, proposals become subject to public review.

Therefore, the proposer is cautioned to clearly identify on its proposal any data that the proposer believes to be exempt from the publication under the Public Records Act. If the proposer identifies in its proposal certain data as exempt from disclosure, then the City will notify the proposer if it receives a request for a copy of the proposal so that the proposer may, in its discretion and at proposer's sole expense, timely seek a protective order to prevent or limit the disclosure. The City will abide by the terms of the protective order provided that the protective order is supplied to the City prior to the City's deadline for responding to the request for records. By submitting a proposal, the proposer agrees that it shall indemnify, defend and hold the City harmless from all liability, claims, suits, demands, damages, fines, penalties, costs or expenses arising out of or alleging the City's refusal to publicly disclose one or more records that the proposer identifies as protectable, or asserts is protectable.

## 19.0 Attachment A - PROFESSIONAL SERVICES AGREEMENT

CONTRACT No. \_\_\_\_\_

(For Architect, Landscape Architect, Professional Engineer, or Professional Land Surveyor)

### **PROFESSIONAL SERVICES AGREEMENT**

BETWEEN THE CITY OF GLENDALE  
AND  
\_\_\_\_\_

**THIS AGREEMENT** ("Agreement"), effective \_\_\_\_\_, 20\_\_ ("Effective Date"), is between the City of Glendale ("CITY"), a municipal corporation, and \_\_\_\_\_ ("CONSULTANT"), a [(Name of State) corporation/ partnership/ limited partnership/ limited liability company/ a sole proprietor/ an individual] (collectively, "PARTIES" or individually, "PARTY").

### **RECITALS**

A. CITY is a public entity organized and existing under its Charter and the State of California's Constitution.

B. CONSULTANT represents that CONSULTANT is, and will continue to be for this Agreement's duration, a [(Name of State) corporation in good standing/ partnership/ limited partnership/ limited liability company/ a sole proprietorship/ an individual.] **[NOTE: staff must verify corporate status/ partnership/ LLC and Consultant's license, if any, and obtain proof.]** **[ADD, IF APPLICABLE: (which) (who) employs persons who are duly registered or licensed to practice in the State of California.]**

C. CONSULTANT possesses the competence, experience, expertise, skill, facilities, equipment, personnel, financial wherewithal, and other resources necessary to perform this Agreement's tasks in a professional and competent manner.

D. CONSULTANT desires to furnish and perform professional services for CITY, on the terms and conditions described in this Agreement. CONSULTANT has the legal authority to provide, engage in, and carry out the professional services set forth in this Agreement.

### **AGREEMENT**

**THEREFORE**, CITY engages CONSULTANT's services, and in consideration of the PARTIES' mutual promises, the PARTIES agree as follows:

#### **1.0 INCORPORATION OF RECITALS**

1.1. The Recitals constitute the factual basis upon which CITY and CONSULTANT have entered into this Agreement. CITY and CONSULTANT acknowledge the Recitals' accuracy and, therefore, incorporate them into this Agreement.

## 2.0 TERM

[Select one of the following alternatives:]

2.1. **[OPTION 1]** This Agreement begins on the Effective Date, and continues in effect until completion of the work described in Article 3, unless this Agreement ends sooner according to the terms elsewhere in this document.

2.1. **[OPTION 2]** This Agreement's Term is [     #     ] [months/ years], beginning on   [DATE]   and ending on   [DATE]  , unless this Agreement ends sooner according to the terms elsewhere in this document.

## 3.0 SERVICES

3.1. **Scope of Work.** CONSULTANT shall   [specify services to be provided]   ("the Services") in accordance with the Scope of Work [***ADD, IF APPLICABLE:*** and Fee Schedule], which is attached as "Exhibit A" to this Agreement and is incorporated into it by this reference. [***NOTE: "Exhibit A" must set forth in detail the nature and extent of services that professional person or firm will render. Scope of Work should identify specific tasks, list and describe any deliverables, and specify procedures/ criteria for acceptance.***]

### 3.2. **Written Authorization.**

(A) CONSULTANT shall not make changes in the Scope of Work, perform any additional work, or provide any additional material, without first obtaining written authorization from CITY. If CONSULTANT provides additional services or materials without written authorization, or if CONSULTANT exceeds the Maximum Cost in Paragraph 7.4 of this Agreement, CONSULTANT proceeds at CONSULTANT's own risk and without payment.

(B) CITY will authorize CONSULTANT to proceed with discrete tasks by issuing written Task Orders. Receipt of a written Task Order, signed by CITY's Project Manager, is a prerequisite for CONSULTANT to proceed with each task. [***ADD, IF APPLICABLE:*** Each Task Order will specify a not-to-exceed price and a schedule for completion of the task. CONSULTANT shall not exceed the not-to-exceed price in each Task Order.] In performing each phase or task, CONSULTANT shall not exceed the Maximum Cost in Paragraph 7.4 of this Agreement. Issuance of a Task Order neither authorizes CONSULTANT to incur expenditures in excess of the Maximum Cost, nor relieves CONSULTANT from its responsibility for completing all of the Services within the Maximum Cost.

3.3. **Professional Standard of Care.** During this Agreement's Term:

(A) CONSULTANT and its Subconsultants, subcontractors, employees, and agents (collectively, "CONSULTANT PARTIES") shall perform all of the Services in this Agreement in an expeditious and professional manner, using professionals properly licensed and duly qualified to perform the Services.

(B) CONSULTANT PARTIES shall perform the work described in this Agreement in accordance with generally accepted professional practices and principles, and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by members of CONSULTANT PARTIES' profession currently practicing in California. By delivering the completed work, CONSULTANT PARTIES represent and certify that their work conforms to: the requirements of this Agreement; all applicable (federal, state, county, local, CITY) laws, rules, regulations, orders, and procedures; and the professional standard of care in California.

(C) CONSULTANT PARTIES are responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation: site conditions; existing facilities; seismic, geologic, soils, hydrologic, geographic, climatic conditions; applicable (federal, state, county, local, CITY) laws, rules, regulations, orders, and procedures; and all other contingencies or design considerations. Data, calculations, opinions, reports, investigations, or any other information or documents that CITY provides relating to site, local, or other conditions are not warranted or guaranteed, either expressly or implied, by CITY.

(D) When the Scope of Work requires or permits CITY's review, approval, conditional approval, or disapproval, CONSULTANT acknowledges that CITY's review, approval, conditional approval, or disapproval:

- (1) Is solely for the purposes of administering this Agreement and determining whether CONSULTANT is entitled to payment for its Services;
- (2) Is not to be construed as a waiver of any breach, or acceptance by CITY, of any responsibility— professional or otherwise— for the Services or CONSULTANT's work product;
- (3) Does not relieve CONSULTANT of the responsibility for complying with the standard of performance or professional care; or laws, regulations, or industry standards; and
- (4) Does not relieve CONSULTANT from liability for damages arising out of CONSULTANT's: negligent acts, errors, or omissions; recklessness; willful misconduct; or noncompliance with industry standards.

(E) Without additional compensation to CONSULTANT and at no cost to CITY, CONSULTANT shall correct or revise all errors, mistakes, or deficiencies in its work product, studies, reports, designs, drawings, specifications, or other services.

#### 4.0 TIME FOR PERFORMANCE

[Select one of the following alternatives:]

- 4.1. **[OPTION 1]** CONSULTANT shall complete all of the Services by     [DATE]    .
- 4.1. **[OPTION 2]** CONSULTANT shall perform the Services according to the Project Time Schedule, which is attached as “Exhibit B” to this Agreement and is incorporated into it by this reference. CONSULTANT shall complete all of the Services by     [DATE]    .
- 4.2. If the Project Time Schedule calls for performance of the Services in phases or discrete increments, CONSULTANT shall not proceed from one phase or increment to the next without written authorization from CITY’s Project Manager.
- 4.3. **Force Majeure.** If an event or condition constituting a “force majeure”—including, but not limited to, an act of God, labor dispute, civil unrest, epidemic, or natural disaster—prevents or delays a PARTY from performing or fulfilling an obligation under this Agreement, the PARTY is not in Default, under Paragraph 13.1 of this Agreement, of the obligation. A delay beyond a PARTY’s control automatically extends the time, in an amount equal to the period of the delay, for the PARTY to perform the obligation under this Agreement. The PARTIES shall prepare and sign an appropriate document acknowledging any extension of time under this Paragraph.

#### 5.0 PERSONNEL

- 5.1. **Project Management.** Each PARTY shall appoint a Project Manager. The Project Managers shall meet [SET FORTH SPECIFIC TIMES: hourly/ daily/ weekly/ as needed] to coordinate, review, and ensure CONSULTANT’s performance under this Agreement. CITY’s Project Manager will oversee the administration of CONSULTANT’s tasks under this Agreement.
- 5.2. **Key Personnel.** CONSULTANT’s project team shall work under the direction of the following key personnel [IDENTIFY CONSULTANT’s KEY PERSONNEL AND TITLE]. **[OR STATE:** CONSULTANT shall employ the key personnel identified in “Exhibit A.”] CONSULTANT shall minimize changes to its key personnel. CITY may request key personnel changes, and CITY may review and approve key personnel changes proposed by CONSULTANT. CITY will not unreasonably withhold approval of key personnel assignments and changes.
- 5.3. **Use of Agents or Assistants.** With CITY’s prior written approval, CONSULTANT may employ, engage, or retain the services of persons or entities (“Subconsultants”) that CONSULTANT may deem proper to aid or assist in the proper performance of CONSULTANT’s duties. CITY is an intended beneficiary of all work that the Subconsultants perform for purposes of establishing a duty of care between the Subconsultants and CITY. CONSULTANT is as responsible for the performance of its Subconsultants as it would be if it had rendered the Services itself. All costs of the tasks performed or the expenses incurred by the Subconsultants are chargeable directly to CONSULTANT. Nothing in this Agreement constitutes or creates a contractual relationship between CITY and anyone other than CONSULTANT.

5.4. **Independent Contractor.**

(A) CONSULTANT understands and acknowledges that CONSULTANT is an independent contractor, not an employee, partner, agent, or principal of CITY. This Agreement does not create a partnership, joint venture, association, or employer-employee relationship between the PARTIES. At its own expense, CONSULTANT is responsible for providing compensation; employment benefits; disability, unemployment, and other insurance; workers' compensation; training; permits and licenses; and office space for CONSULTANT and for CONSULTANT's employees and Subconsultants. CONSULTANT has, and shall retain, the right to exercise full control over the employment, direction, compensation, and discharge of all persons whom CONSULTANT uses in performing the Services under this Agreement. CONSULTANT shall provide the Services in CONSULTANT's own manner and method, except as this Agreement specifies. CONSULTANT shall treat a provision in this Agreement that may appear either to give CITY the right to direct CONSULTANT as to the details of doing the work, or to exercise a measure of control over the work, as giving CONSULTANT direction only as to the work's end result.

(B) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY for any obligation; claim; suit; demand for tax or retirement contribution, including any contribution or payment to the Public Employees Retirement System (PERS); social security; salary or wages; overtime, penalty, or interest payment; or workers' compensation payment that CITY may be required to make on behalf of CONSULTANT, an employee of CONSULTANT, or any employee of CONSULTANT construed to be an employee of CITY, for the work done under this Agreement.

5.5. **Non-Discrimination in Employment.** CONSULTANT shall not discriminate against any employee or person who is subject to this Agreement because of race, color, religion, religious belief, national origin, ancestry, citizenship, age, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, parenthood, medical condition, or physical or mental disability.

5.6. **Disability Access Laws.** CONSULTANT represents and certifies that the work product, studies, reports, designs, drawings, and specifications that CONSULTANT prepares under this Agreement fully conform to all applicable disability access and design laws, regulations, and standards— including, but not limited to, the Americans with Disabilities Act (42 U.S.C. Sections 12101 *et seq.*) and Title 24 of the California Code of Regulations— when the Scope of Work requires or calls for compliance with those laws, regulations, or standards.

5.7. **Prevailing Wage Laws.** Services by persons deemed to be employees of CONSULTANT possibly may be subject to prevailing wages under California Labor Code Sections 1770-1781. CONSULTANT's sole responsibility is to comply with those requirements, should they apply. If a dispute based upon the prevailing wage laws occurs, CONSULTANT, at its expense, shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, fines, penalties, wages, costs, or expenses pertaining to the prevailing wage laws.

5.8. **Workers' Compensation.** CONSULTANT understands and acknowledges that all persons furnishing services to CITY under this Agreement are, for the purpose of workers' compensation liability, employees solely of CONSULTANT and not of CITY. In performing the Services or the work under this Agreement, CONSULTANT is liable for providing workers' compensation benefits to CONSULTANT's employees, or anyone whom CONSULTANT directly or

indirectly hires, employs, or uses. CITY is not responsible for any claims at law or in equity caused by CONSULTANT's failure to comply with this Paragraph.

## 6.0 FACILITIES

6.1. CONSULTANT shall provide all facilities necessary to fully perform and complete the Services. If CONSULTANT needs to use a CITY facility, CONSULTANT shall meet and confer with CITY before CONSULTANT begins the work that this Agreement requires, the PARTIES shall agree to any costs chargeable to CONSULTANT, and in an amendment to this Agreement, the PARTIES shall describe the facility's terms of use and its charges.

6.2. CONSULTANT shall pay for any damage to CITY property, facilities, structures, or streets arising out of CONSULTANT's use, occupation, operation, or activities in, upon, under, or over any portion of them.

## 7.0 PAYMENT

7.1. CITY's payment to CONSULTANT will be based upon CONSULTANT's Fee Schedule, which is attached as "Exhibit C" to this Agreement and is incorporated into it by this reference. **[NOTE: "Exhibit C" must include a breakdown of the not-to-exceed amount, including hourly rates for project staff, any overtime rates, a list and the rate for any reimbursable expenses, or a statement that costs are included in the hourly rate, and an explanation of any mark-ups.]** Except as itemized in the Fee Schedule, CONSULTANT shall pay for all expenses, including reimbursable or out-of-pocket expenses, that CONSULTANT incurs in performing the Services. The Fee Schedule will remain in effect for the Agreement's Term.

[Select one of the following provisions:]

7.2. **Fee. [OPTION 1]** CITY shall pay for the Services in a lump sum, which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_), upon CONSULTANT's satisfactory completion of the Services and CONSULTANT's delivery of the work product.

7.2. **Fee. [OPTION 2]** CITY shall pay for the Services that CONSULTANT performs in accordance with this Agreement at the hourly rate(s) specified in "Exhibit C," the TOTAL amount of which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_).

7.2. **Fee. [OPTION 3]** CITY shall pay for the Services in [IF PAYMENTS ARE IN INTERVALS, SPECIFY A PERIOD (e.g., monthly/ quarterly) OR SPECIFY A QUANTITY (e.g., two/ three/ five)] installments, the TOTAL amount of which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_). Each installment will be payable upon satisfactory completion, in CITY's determination, of the work in each phase identified below, and in an amount proportionate to the work CONSULTANT performed or completed within each phase:

<u>Phase:</u>	<u>Description:</u>	<u>Amount:</u>
I —	[Example: Construction Documents]	\$ _____
II —	[Example: Bid Documents]	\$ _____
III —	[Example: Construction Support]	\$ _____
IV —	[Example: Project 's Closeout]	\$ _____
<b>TOTAL</b>		<b>\$ _____</b>

7.3. If CITY requires additional work not included in this Agreement, CONSULTANT and CITY shall negotiate the additional work, mutually agree on the amount of additional compensation, and memorialize the terms in either a separate written contract or an amendment to this Agreement.

7.4. **Maximum Cost.** CONSULTANT expressly acknowledges that the total cost to complete all tasks set forth in "Exhibit A" must not exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_) ("Maximum Cost"). When CONSULTANT has billed 75% of the Maximum Cost, CONSULTANT shall provide written notice to CITY's Project Manager that CONSULTANT has expended 75% of the Maximum Cost.

7.5. **Taxes.** CONSULTANT shall pay all applicable (federal, state, county, local, CITY) excise, sales, consumer use, possessory interest, or other similar taxes required by law that are levied upon this Agreement or upon CONSULTANT's services under this Agreement.

7.6. **Invoices.** CONSULTANT shall submit an original, itemized invoice to CITY for approval, before receiving compensation. CONSULTANT shall submit the invoice at no more than monthly intervals. All invoices must include a summary of total costs, description of the Services performed, a brief itemization of costs associated with each task or phase, and the total phase or project costs to date.

## **8.0 AUDIT BY CITY**

8.1. During this Agreement's Term and for a period of four (4) years after the expiration, cancellation, or termination of this Agreement, or any extension of it, CONSULTANT shall:

(A) Keep and maintain, in their original form, all records, books, papers, or documents related to CONSULTANT's performance of this Agreement; and

(B) Permit CITY or its authorized representatives, at all reasonable times, to have access to, examine, audit, excerpt, copy, photocopy, photograph, or transcribe all records, books, papers, or documents related to CONSULTANT's performance of this Agreement including, but not limited to: direct and indirect charges, and detailed documentation, for work CONSULTANT has performed or will perform under this Agreement.

## **9.0 DATA, RECORDS, PROPRIETARY RIGHTS**

9.1. **Copies of Data.** CONSULTANT shall provide CITY with copies or originals of all data that CONSULTANT generates, uses, collects, or stores in relation to all work associated with this Agreement. Data that CONSULTANT generates, uses, collects, stores, or provides must be in a form acceptable to, and agreed upon by, CITY.



9.2. **Ownership and Use.**

(A) Unless CITY states otherwise in writing, each document— including, but not limited to, each report, draft, record, drawing, or specification (collectively, “work product”)— that CONSULTANT prepares, reproduces, or causes its preparation or reproduction for this Agreement is CITY’s exclusive property.

(B) CONSULTANT acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work. CONSULTANT makes no representation of the work product’s application to, or suitability for use in, circumstances not contemplated by the Scope of Work.

9.3. **Intellectual Property.**

(A) If CONSULTANT uses or incorporates patented, trademarked, or copyrighted work, ideas, or products— in whole or in part— into CONSULTANT’s work product, CONSULTANT represents that:

- (1) CONSULTANT holds the patent, trademark, or copyright to the work, idea, or product; or
- (2) CONSULTANT is licensed to use the patented, trademarked, or copyrighted work, idea, or product.

(B) Unless CITY states otherwise in writing, all proprietary rights or intellectual property rights, including copyrights, that arise from creation of the work under this Agreement vest in CITY. CONSULTANT waives and relinquishes all claims to proprietary rights and intellectual property rights, including copyrights, in favor of CITY.

(C) CONSULTANT shall indemnify, defend (including CONSULTANT’s providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, royalties, fines, penalties, costs, or expenses arising out of or alleging any infringement or misappropriation of a patent, copyright, trade secret, trade name, trademark, or other intellectual property right or proprietary right.

9.4. **Confidentiality.** CONSULTANT shall not use any information that it obtains from performing the Services for any purpose other than for fulfillment of CONSULTANT’s Scope of Work. Without CITY’s prior written authorization, CONSULTANT shall not disclose or publish— or authorize, permit, or allow others to disclose or publish— data, drawings, designs, specifications, reports, or other information relating to the Services or the work that CITY assigns to CONSULTANT or to which CONSULTANT has access.

9.5. **Public Records Act.**

(A) CONSULTANT acknowledges that this Agreement is a public record. This Agreement, its Exhibits, and all documents produced under this Agreement are subject to the California Public Records Act (Government Code Sections 6250 *et seq.*), including its exemptions.

CONSULTANT acknowledges that CITY has no obligation to notify CONSULTANT when a request for records is received.

(B) CONSULTANT shall identify in advance all records, or portions of them, that CONSULTANT believes are exempt from production under the Public Records Act.

(C) If CONSULTANT claims a privilege against public disclosure or otherwise objects to the records' disclosure, then:

(1) CONSULTANT may, when notified by CITY of the request, seek protection from disclosure by timely applying for relief in a court of competent jurisdiction; or

(2) CITY may either decline to produce the requested information, or redact portions of the documents and produce the redacted records.

(D) If CONSULTANT fails to identify one or more protectable documents, in CITY's sole discretion, and without its being in breach of this Agreement or its incurring liability to CONSULTANT, CITY may produce the records— in whole, in part, or redacted— or may decline to produce them.

(E) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, fines, penalties, costs, or expenses arising out of or alleging CITY's refusal to publicly disclose one or more records that CONSULTANT identifies as protectable, or asserts is protectable.

## **10.0 CONFLICT OF INTEREST; CAMPAIGN CONTRIBUTIONS**

10.1. **Conflict of Interest.** CONSULTANT represents and certifies that:

(A) CONSULTANT's personnel are not currently officers, agents, employees, representatives, or elected officials of CITY;

(B) CONSULTANT will not employ or hire a CITY officer, agent, employee, representative, or elected official during this Agreement's Term;

(C) CITY's officers, agents, employees, representatives, and elected officials do not, and will not, have any direct or indirect financial interest in this Agreement; and

(D) During this Agreement's Term, CONSULTANT will inform CITY about any possible conflict of interest that may arise as a result of any change in circumstances.

10.2. **Campaign Contributions.**

(A) CONSULTANT and its Subconsultants shall fully comply with Glendale Municipal Code Section 1.10.060, which places limitations on CONSULTANT's and its Subconsultants' ability to make campaign contributions to certain elected City officials or candidates for elected City office. Specifically, Section 1.10.060 prohibits:

- (1) A consultant (including a subconsultant)— who has a contract with the City of Glendale, Glendale Successor Agency, or the Housing Authority of the City of Glendale and that contract is subject to approval by the City Council, Successor Agency, or Housing Authority— from making a contribution to a City Council member, City Clerk, or City Treasurer, when the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of contracts having a value of \$50,000 or more; and
- (2) A City Council member, Successor Agency member, or Housing Authority member from voting on a contract in which a consultant (or a subconsultant) has provided a campaign contribution.

(B) CONSULTANT acknowledges that even if the Maximum Cost in Paragraph 7.4 of this Agreement is less than \$50,000, CONSULTANT still may be subject to the campaign contribution limitations in Municipal Code Section 1.10.060, when:

- (1) CONSULTANT and CITY amend the Scope of Work in this Agreement which increases the Maximum Cost to equal or exceed \$50,000; or
- (2) CITY, Glendale Successor Agency, or the Housing Authority awards CONSULTANT another contract which has a total anticipated or actual value of \$50,000 or more, or awards CONSULTANT a combination or series of contracts which have a value of \$50,000 or more.

(C) CONSULTANT represents and certifies that:

- (1) CONSULTANT has read and fully understands the provisions of Municipal Code Section 1.10.060;
- (2) CONSULTANT will not: (a) make a prohibited campaign contribution to an individual holding CITY elective office; or (b) otherwise violate Municipal Code Section 1.10.060; and
- (3) CONSULTANT shall timely complete, return, and update one or more disclosure or reporting forms that CITY provides.

## **11.0 INSURANCE**

11.1. When CONSULTANT signs and delivers this Agreement to CITY, and during this Agreement's Term, CONSULTANT shall furnish CITY with insurance forms that fully meet the requirements of— and contain provisions entirely consistent with— all of the "Insurance Requirements," which are attached as "Exhibit D" (D-1 to D-\_\_\_) to this Agreement and are incorporated into it by this reference.

11.2. This Agreement's insurance provisions:

(A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.

## 12.0 **INDEMNITY**

12.1. To the maximum extent permitted by law— including, but not limited to, California Civil Code Sections 2778 and 2782.8— CONSULTANT, its employees, agents, Subconsultants, and persons whom CONSULTANT employs or hires (individually and collectively, “CONSULTANT INDEMNITOR”) shall indemnify, defend, and hold harmless CITY, its officers, agents, employees, and representatives (individually and collectively, “CITY INDEMNITEE”) from and against a “**liability**” [as defined in Subparagraph (A) below], or an “**expense**” [as defined in Subparagraph (B) below], or both, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of a CONSULTANT INDEMNITOR:

(A) “**Liability**” means claims, suits, actions, causes of action, proceedings, judgments, decrees, awards, settlements, liens, losses, damages, injuries, or liability of any kind, whether the **liability** is:

- (1) Actual or alleged;
- (2) In contract or in tort; or
- (3) For bodily injury (including accidental death), personal injury, advertising injury, or property damage.

(B) “**Expense**” means fees, costs, sums, penalties, fines, charges, or expenses of any kind, including, but not limited to:

- (1) Attorney’s fees;
- (2) Costs of an investigation, litigation, arbitration, mediation, administrative or regulatory proceeding, or appeal;
- (3) Fees of an accountant, expert witness, consultant, or other professional; or
- (4) Pre or post: judgment interest or settlement interest.

12.2. Under this Article, CONSULTANT INDEMNITOR’s defense and indemnification obligations:

(A) Apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the actual or alleged passive negligence of a CITY INDEMNITEE; but

(B) Do not apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the sole active negligence or willful misconduct of a CITY INDEMNITEE.

12.3. To the extent that CONSULTANT INDEMNITOR's insurance policy provides an upfront defense to CITY, CONSULTANT INDEMNITOR's obligation to defend a CITY INDEMNITEE under this Article:

(A) Means that CONSULTANT INDEMNITOR shall provide and pay for legal counsel, acceptable to CITY, for the CITY INDEMNITEE;

(B) Occurs when a claim, suit, complaint, pleading, or action against a CITY INDEMNITEE arises out of, pertains to, relates to, or asserts the negligence, recklessness, or willful misconduct of CONSULTANT INDEMNITOR; and

(C) Arises regardless of whether a claim, suit, complaint, pleading, or action specifically names or identifies CONSULTANT INDEMNITOR.

12.4. Paragraph 12.3 does not limit or extinguish CONSULTANT INDEMNITOR's obligation to reimburse a CITY INDEMNITEE for the costs of defending the CITY INDEMNITEE against a **liability**, or an **expense**, or both. The defense costs charged to CONSULTANT INDEMNITOR will not exceed CONSULTANT INDEMNITOR's proportionate percentage of fault. A CITY INDEMNITEE's right to recover defense costs and attorney's fees under this Article does not require, and is not contingent upon, the CITY INDEMNITEE's first:

(A) Requesting that CONSULTANT INDEMNITOR provide a defense to the CITY INDEMNITEE; or

(B) Obtaining CONSULTANT INDEMNITOR's consent to the CITY INDEMNITEE's tender of defense.

12.5. If CONSULTANT subcontracts all or any portion of the Services under this Agreement, CONSULTANT shall provide CITY with a written agreement from each Subconsultant, who must indemnify, defend, and hold harmless CITY INDEMNITEE under the terms in this Article.

12.6. CONSULTANT INDEMNITOR's obligation to indemnify, defend, and hold harmless CITY will remain in effect and will be binding upon CONSULTANT INDEMNITOR whether the **liability**, or the **expense**, or both, accrues— or is discovered— before or after this Agreement's expiration, cancellation, or termination.

12.7. Except for Paragraph 12.3, this Article's indemnification and defense provisions are separate and independent from the insurance provisions in Article 11. In addition, the indemnification and defense provisions in this Article:

(A) Are neither limited to nor capped at the coverage amounts specified under the insurance provisions in Article 11; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the insurance provisions in Article 11.

### 13.0 **DEFAULT, REMEDIES, AND TERMINATION**

13.1. **Default.** Default under this Agreement occurs upon any one or more of the following events:

(A) CONSULTANT refuses or fails— whether partially, fully, temporarily, or otherwise— to:

- (1) Provide or maintain enough properly trained personnel, or licensed personnel, or both, to perform the Services that this Agreement requires;
- (2) Pay for, obtain, maintain, or renew the insurance policies or coverages that this Agreement requires;
- (3) Comply with indemnification, defense, or hold harmless provisions that this Agreement requires; or

or otherwise: (B) CONSULTANT, or its personnel, or both— whether partially, fully, temporarily,

- (1) Disregards or violates a law, ordinance, rule, procedure, regulation, directive, or order;
- (2) Refuses or fails to pay for, obtain, maintain, or renew requisite licenses;
- (3) Refuses or fails to observe, perform, or fulfill a covenant, condition, obligation, term, or provision of this Agreement;
- (4) Commits an unlawful, false, fraudulent, dishonest, deceptive, or dangerous act while performing the Services under this Agreement; or

(C) CONSULTANT:

- (1) Or another party for or on behalf of CONSULTANT: institutes proceedings under any bankruptcy, reorganization, receivership or other insolvency; or assigns or transfers assets to its creditors;
- (2) Delegates— whether in whole, in part, temporarily, or otherwise— its duties or obligations under this Agreement, without notifying CITY, or without CITY's written authorization;
- (3) Assigns, transfers, pledges, hypothecates, grants, or encumbers— whether in whole, in part, temporarily, or otherwise— this Agreement or any interest in it, without notifying CITY, or without CITY's written authorization;
- (4) Or one of its partners, directors, officers, or general managers, or a person who exercises managerial authority on CONSULTANT's behalf, is convicted under state or federal law, during this Agreement's Term, of embezzlement, theft, fraud, forgery, bribery, deceptive or

unlawful business practices, perjury, falsifying or destroying records or evidence, receiving stolen property, or other offense indicating a lack of business integrity or business honesty; or

(D) Any other justifiable cause or reason, as reasonably determined by the City Manager, or a designee.

13.2. **Notice of Default.** If CITY deems that CONSULTANT is in Default, or that CONSULTANT has failed in any other respect to perform satisfactorily the Services specified in this Agreement, CITY may give written notice to CONSULTANT specifying the Default(s) that CONSULTANT shall remedy within [SELECT: 5/ 10/ 14/ 30] days after receiving the notice. The Notice of Default will set forth one or more bases for any dissatisfaction and may suggest corrective measures.

13.3. **Remedies upon Default.** Within [SELECT THE SAME NUMBER IN PARAGRAPH 13.2 ABOVE: 5/ 10/ 14/ 30] days after receiving CITY's Notice of Default, if CONSULTANT refuses or fails to remedy the Default(s), or if CONSULTANT does not commence steps to remedy the Default(s) to CITY's reasonable satisfaction, CITY may exercise any one or more of the following remedies:

(A) CITY may, in whole or in part and for any length of time, immediately suspend this Agreement until such time as CONSULTANT has corrected the Default;

(B) CITY may provide for the Services either through its own forces or from another consultant, and may withhold any money due (or may become owing to) CONSULTANT for a task related to the claimed Default;

(C) CITY may withhold all moneys, or a sum of money, due CONSULTANT under this Agreement, which in CITY's sole determination, are sufficient to secure CONSULTANT's performance of its duties and obligations under this Agreement;

(D) CITY may immediately terminate the Agreement;

(E) CITY may exercise any legal remedy, or equitable remedy, or both, including, but not limited to, filing and action in court:

(1) Seeking CONSULTANT's specific performance of all or any part of this Agreement; or

(2) Recovering damages for CONSULTANT's Default, breach, or violation of this Agreement; or

(F) CITY may pursue any other available, lawful right, remedy, or action.

13.4. **Termination for Convenience.** Independent of the remedies provided in Paragraph 13.3, CITY may elect to terminate this Agreement at any time upon [SELECT: 10/ 14/ 30] days' prior written notice. Upon termination, CONSULTANT shall receive compensation only for that work which CONSULTANT had satisfactorily completed to the termination date. CITY shall not pay

CONSULTANT for de-mobilization, takedown, disengagement, wind-down, or other costs incurred arising out of this Agreement's termination.

## 14.0 **GENERAL PROVISIONS**

14.1. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the PARTIES. This Agreement supersedes all prior and contemporaneous communications, negotiations, understandings, promises and agreements, either oral or written. Neither CONSULTANT nor CITY has made any promises or representations, other than those contained in this Agreement or those implied by law. The PARTIES may modify this Agreement, or any part of it, by a written amendment with CITY's and CONSULTANT's signature.

14.2. **Interpretation.** This Agreement is the product of negotiation and compromise by both PARTIES. Every provision in this Agreement must be interpreted as though the PARTIES equally participated in its drafting. Therefore, despite the provisions in California Civil Code Section 1654, if this Agreement's language is uncertain, the Agreement must not be construed against the PARTY causing the uncertainty to exist. In interpreting this Agreement and resolving any ambiguities, this Agreement will take precedence over any cover page or attachments. If a conflict occurs between a provision in this Agreement and a provision in an attachment, the following order of precedence applies, with the terms and conditions in the document higher on the list governing over those lower on the list:

- (1) The Agreement.
- (2) Exhibit D (Insurance Requirements).
- (3) Exhibit B (Project Time Schedule).
- (4) Exhibit A (Scope of Work).
- (5) Exhibit C (Fee Schedule).

14.3. **Headings.** All headings or captions in this Agreement are for convenience and reference only. They are not intended to define or limit the scope of any term, condition, or provision.

### 14.4. **Governing Law; Jurisdiction.**

(A) California's laws govern this Agreement's construction and interpretation regardless of the laws that might otherwise apply under applicable principles of conflicts of law or choice of law.

(B) If CONSULTANT or CITY brings a lawsuit to enforce or interpret one or more provisions of this Agreement, jurisdiction is in the Superior Court of the County of Los Angeles, California, or where otherwise appropriate, in the United States District Court, Central District of California. CONSULTANT and CITY acknowledge that the Agreement was negotiated, entered into, and executed— and the Services are performed— in the City of Glendale, California.

(C) Unless this Agreement provides otherwise, any reference to laws, ordinances, rules, or regulations include their later amendments, modifications, and successor legislation.

14.5. **Waiver of Breach.** If either PARTY fails to require the other to perform any term in this Agreement, that failure does not prevent the PARTY from later enforcing that term, or any other term. If either PARTY waives the other's breach of a term, that waiver is not treated as waiving a



later breach of the term. A waiver of a term is valid only if it is in writing and signed by the PARTY waiving it. This Agreement's duties and obligations:

(A) Are cumulative (rather than alternative) and are in addition to (rather than a limitation on) any option, right, power, remedy, or privilege; and

(B) Are not exhausted by a PARTY's exercise of any one of them.

14.6. **Attorney's Fees.** If CITY or CONSULTANT brings an action at law or in equity to enforce or interpret one or more provisions of this Agreement, the "prevailing party" is entitled to "reasonable attorney's fees" in addition to any other relief to which the prevailing party may be entitled. A "prevailing party" has the same meaning as that term is defined in California Code of Civil Procedure Section 1032(a)(4). "Reasonable attorney's fees" of the City Attorney's office means the fees regularly charged by private attorneys who:

(A) Practice in a law firm located in Los Angeles County; and

(B) Have an equivalent number of years of professional experience in the subject matter area of the law for which the City Attorney's services were rendered.

14.7. **Further Assurances.** Upon CITY's request at any time, CONSULTANT shall promptly:

(A) Take further necessary action; and

(B) Sign, acknowledge, and deliver all additional documents as may be reasonable, necessary, or appropriate to carry out this Agreement's intent, purpose, and terms.

14.8. **Assignment.**

(A) This Agreement does not give any rights or benefits to anyone, other than to CITY and CONSULTANT. All duties, obligations, and responsibilities under this Agreement are for the sole and exclusive benefit of CITY and CONSULTANT, and are not for the benefit of another person, entity, or organization. Without CITY's prior written authorization, CONSULTANT shall not do any one or more of the following:

(1) Assign or transfer a right or interest— whether in whole, in part, temporarily, or otherwise— in this Agreement; or

(2) Delegate a duty or obligation owed— whether in whole, in part, temporarily, or otherwise— under this Agreement.

(B) Any actual or attempted assignment of rights or delegation of duties by CONSULTANT, without CITY's prior written authorization, is wholly void and totally ineffective for all purposes; and does not postpone, delay, alter, extinguish, or terminate CONSULTANT's duties, obligations, or responsibilities under this Agreement.

(C) If CITY consents to an assignment of rights, or a delegation of duties, or both, CONSULTANT's assignee or legal representative shall agree in writing to personally assume,

perform, and to be bound unconditionally by the covenants, obligations, terms, and conditions in this Agreement.

14.9. **Successors and Assigns.** Subject to the provisions in Paragraph 14.8, this Agreement is binding on the heirs, executors, administrators, successors, and assigns of the respective PARTIES.

14.10. **Time is of the Essence.**

(A) Except when this Agreement states otherwise, time is of the essence in this Agreement. CONSULTANT acknowledges that this Agreement's time limits and deadlines are reasonable for CONSULTANT's performing the Services under this Agreement.

(B) Unless this Agreement specifies otherwise, any reference to "day" or "days" means calendar and not business days. If the last day for giving notice or performing an act under this Agreement falls on a weekend, a legal holiday listed in either Glendale Municipal Code Section 3.08.010 or California's Government Code, or a day when City Hall is closed, the period is extended to and including the next day that CITY is open for business. A reference to the time of day refers to local time for Glendale, California.

14.11. **Recycled Paper.** CONSULTANT shall endeavor to submit all reports, correspondence, and documents related to this Agreement on recycled paper.

14.12. **Notices.**

(A) The PARTIES shall submit in writing all notices and correspondence that this Agreement requires or permits, and shall use the following delivery method:

- (1) Personal delivery;
- (2) U.S. mail, first class postage prepaid;
- (3) "Certified" U.S. mail, postage prepaid, return receipt requested;
- (4) Facsimile; or
- (5) Email.

(B) All written notices or correspondence done in the manner described in Subparagraph (A) above with the street address or place, facsimile number, or email address listed in Subparagraph (C) below will be presumed "given" to a PARTY on whichever date occurs earliest:

- (1) The date of personal delivery;
- (2) The third (3rd) business day following deposit in the U.S. mail, when sent by "first class" mail;
- (3) The date on which the PARTY or its agent either signed the return receipt or refused to accept delivery, as noted on the return receipt or other U.S. Postal Service form, when sent by "certified" mail; or
- (4) The date of transmission, when sent by facsimile or email.

(C) CITY and CONSULTANT designate the following contact person, street address or place, telephone number, and facsimile number or email address for giving notice:

CITY: City of Glendale  
 Dept.: \_\_\_\_\_  
 \_\_\_\_\_  
 Glendale, CA 9120\_\_  
 Attn: \_\_\_\_\_  
 \_\_\_\_\_  
 Tel. No.: \_\_\_\_\_  
 Fax. No.: \_\_\_\_\_  
 Email: \_\_\_\_\_

CONSULTANT:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attn: \_\_\_\_\_  
 \_\_\_\_\_  
 Tel. No.: \_\_\_\_\_  
 Fax. No.: \_\_\_\_\_  
 Email: \_\_\_\_\_

(D) At any time, by providing written notice to the other PARTY, CITY or CONSULTANT may change the contact information listed in Subparagraph (C) above.

14.13. **Survival.** This Paragraph and the obligations set forth in Paragraphs 5.4, 5.6, 5.7, 5.8, 7.5, 8.1, 9.1, 9.2, 9.3, 9.4, 9.5, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 13.3, 14.5, 14.6, 14.7, 14.8, 14.9, and 14.12 survive this Agreement's expiration, cancellation, or termination.

14.14. **Severability.** The invalidity, in whole or in part, of any term of this Agreement will not affect this Agreement's remaining terms.

14.15. **Counterparts.** This Agreement may be executed in counterparts, each of which is an original, but all of which constitutes one and the same document. The PARTIES shall sign a sufficient number of counterparts, so that each PARTY will receive a fully executed original of this Agreement.

14.16. **Representations – Authority.** The PARTIES represent that:

(A) They have read this Agreement, fully understand its contents, and have received a copy of it;

(B) Through their duly authorized representative, they are authorized to sign this Agreement, and they are bound by its terms; and

(C) They have executed this Agreement on the date opposite their signature.

14.17. **Digital Signatures.** A signed copy of this Agreement or any amendment thereto bearing a digital signature, shall be deemed to have the same legal effect as delivery of an original

executed copy of this Agreement or such amendment thereto for all purposes, and each digital signature should be given the same legal force and effect as a handwritten signature.

Executed at Glendale, California.

**CITY OF GLENDALE:**

By \_\_\_\_\_  
Yasmin K. Beers  
City Manager

Date: \_\_\_\_\_

**CONSULTANT:**

By \_\_\_\_\_  
(Name) \_\_\_\_\_  
(Title) \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM
NAME: _____
TITLE: _____
SIGNATURE: _____
DATE: _____

## 20.0 Attachment B – INSURANCE REQUIREMENTS

### INSURANCE REQUIREMENTS

#### *PROFESSIONAL SERVICES AGREEMENT*

##### **“PROFESSIONAL LIABILITY” INSURANCE**

**1.1** Without limiting CONSULTANT's liability and at its sole expense, CONSULTANT shall obtain, pay for, and maintain a Professional Liability insurance policy.

**1.2** The Professional Liability policy must:

- (A) Include “**errors and omissions**” coverage or “**malpractice**” coverage;
- (B) Afford “**practice specific**” or “**project specific**” coverage;
- (C) Provide limits of liability in an amount not less than:
  - (1) ONE MILLION DOLLARS (\$1,000,000) per claim; and
  - (2) TWO MILLION DOLLARS (\$2,000,000) in the aggregate;
- (D) Cover a claim or claims arising out of the performance of professional services by:
  - (1) CONSULTANT;
  - (2) CONSULTANT's Subconsultant(s);
  - (3) Anyone whom CONSULTANT or its Subconsultant(s) directly or indirectly employs or uses; or
  - (4) Anyone whose acts CONSULTANT or its Subconsultant(s) may be liable; and
- (E) Provide coverage for:
  - (1) The duration of this Agreement; and
  - (2) At least three (3) years after the Project's completion:
    - (a) CONSULTANT shall obtain, pay for, and maintain an endorsement that adds an “extended reporting period” (“ERP”) or a “discovery” feature—to allow CITY to report a claim—for a period of not less than three (3) years following the initial policy's expiration, or following CITY's recordation of its “notice of completion” for the Project, whichever date is later. The endorsement for the ERP or discovery feature must provide identical policy

limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above; or

- (b) CONSULTANT shall obtain, pay for, and maintain successive renewal or replacement policies (with "prior acts" coverage), for a period of three (3) years following the initial policy's expiration, or following CITY's recordation of its "notice of completion" for the Project, whichever date is later. Each policy must have a "retroactive date" that coincides with, or is earlier than, this Agreement's Effective Date. Additionally, each policy must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above.

**1.3** All ERP or discovery endorsements, renewal policies, and replacement coverage policies are subject to CITY's review and approval, in its sole discretion.

**1.4** CONSULTANT shall pay the full amount of all deductibles and any self-insured retention per claim for coverage under the Professional Liability insurance policy.

**INSURANCE REQUIREMENTS**  
**PROFESSIONAL SERVICES AGREEMENT**

**“WORKERS’ COMPENSATION” INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— for the duration of this Agreement:

- (A) Complete Workers’ Compensation insurance, meeting or exceeding the coverages and amounts that California law requires; and
- (B) Employer’s Liability insurance in an amount not less than:
  - (1) ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury or disease;
  - (2) ONE MILLION DOLLARS (\$1,000,000) per employee for bodily injury or disease;
  - and
  - (3) ONE MILLION DOLLARS (\$1,000,000) policy limit.

**1.2** CONSULTANT shall provide CITY with a “***certificate of insurance***”— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, this Agreement’s workers’ compensation insurance requirements.

**1.3** CITY shall not be liable to CONSULTANT’s personnel, or anyone CONSULTANT directly or indirectly employs or uses, for a claim at law or in equity arising out of CONSULTANT’s failure to comply with this Agreement’s workers’ compensation insurance requirements.

**INSURANCE REQUIREMENTS**  
**PROFESSIONAL SERVICES AGREEMENT**

**“COMMERCIAL GENERAL LIABILITY” OR “BUSINESSOWNERS LIABILITY” INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a “Commercial General Liability” or a “Businessowners Liability” insurance policy on an **occurrence** basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, personal and advertising injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives (collectively, “CITY AND ITS REPRESENTATIVES”) as **additional insureds**.

**1.2** Coverage afforded to CITY AND ITS REPRESENTATIVES must be at least as broad as that afforded to CONSULTANT. If CONSULTANT has higher limits than the limits specified in these insurance requirements, or has additional broader coverage, or has both, the insurer shall make available the higher limits and broader coverage to CITY AND ITS REPRESENTATIVES. The insurance must be written for the limits of liability specified below:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for bodily injury (including accidental death) to any one person;
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for personal and advertising injury to any one person;
- (C) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for property damage; and
- (D) TWO MILLION DOLLARS (\$2,000,000) general aggregate limit, or the full aggregate limits of the policy— whichever limit is greater.

**1.3** The liability insurance must include all major divisions of coverage and must cover:

- (A) Premises Operations (including Explosion, Collapse, and Underground [“X,C,U”] coverages as applicable);
- (B) Independent Contractors’ Protective Liability;
- (C) Products and Completed Operations (maintain same limits as above until five (5) years after recordation of Notice of Completion);
- (D) Personal and Advertising Injury (with Employer’s Liability Exclusion deleted);
- (E) Contractual Liability; and
- (F) Broad Form Property Damage.



1.4 CONSULTANT shall provide CITY with a “***certificate of insurance***,” an “***additional insured endorsement***,” and a subrogation endorsement, “***Waiver of Transfer to Rights of Recovery Against Others***”— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The “certificate of insurance” and an “additional insured endorsement” must state:

“The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City’s insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage.”

## INSURANCE REQUIREMENTS

### PROFESSIONAL SERVICES AGREEMENT

#### **“BUSINESS AUTOMOBILE” LIABILITY INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a “Business Automobile” insurance policy on an **occurrence** basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives as **additional insureds**.

**1.2** The insurance must not be written for less than the limits of liability specified below or required by law, whichever coverage amount is greater:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury (including accidental death) to any one person; and
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence for property damage; or
- (C) TWO MILLION DOLLARS (\$2,000,000) combined single limit (“CSL”).

**1.3** The liability insurance must include all major divisions of coverage and must cover all vehicles, whether rented, leased, hired, scheduled, owned or non-owned.

**1.4** CONSULTANT shall provide CITY with a ***“certificate of insurance”*** and an ***“additional insured endorsement”***— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

**1.5** The “certificate of insurance” and an “additional insured endorsement” must state:

“The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City’s insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage.”

## INSURANCE REQUIREMENTS

### *PROFESSIONAL SERVICES AGREEMENT*

#### **GENERAL REQUIREMENTS**

**1.1** At all times, the insurance company issuing the policy must meet all three of these requirements:

- (A) It must be “admitted” insurer by the State of California Department of Insurance or must be listed on the California Department of Insurance’s “List of Approved Surplus Line Insurers” (“LASLI”);
- (B) It must be domiciled within, and organized under the laws of, a State of the United States; and
- (C) It must carry a minimum A.M. Best Company Financial Strength Rating of “A:VII,” or better.

**1.2** If the Agreement requires any of the foregoing insurance coverages to remain in force after the Final Payment, and if they are reasonably available, CONSULTANT shall submit to CITY— with the final Application for Payment— all certificates and additional insured endorsements evidencing the coverages’ continuation.

**1.3** A deductible or self-insured retention is subject to CITY’s review and approval, in its sole discretion. The insurance company or its authorized representative must state either on the insurance certificate or in a separate correspondence:

- (A) The amount of the deductible, or self-insured retention, or both;
- (B) Whether a limit of insurance has been lowered by any pending or paid claim; and
- (C) The current limit amount, as lowered by the pending or paid claim.

**1.4** Despite any conflicting or contrary provision in CONSULTANT’s insurance policy:

- (A) If CONSULTANT’s insurance company adds CITY, and its officers, agents, employees, and representatives (collectively, “its representatives”) as additional insureds, then for all acts, errors, or omissions of CITY, or its representatives, or both, that insurer shall:
  - (1) Pay those sums that CITY, or its representatives, or both, become legally obligated to pay as damages; and
  - (2) Defend— and pay the costs of defending— CITY, or its representatives, or both;
- (B) CONSULTANT’s insurance is primary;

- (C) Other insurance (whether primary, excess, contingent or self-insurance, or any other basis) available to CITY, or its representatives, or both, is excess over CONSULTANT's insurance;
- (D) CITY's insurance, or self-insurance, or both, will not contribute with CONSULTANT's insurance policy;
- (E) CONSULTANT and CONSULTANT's insurance company waive— and shall not exercise— any right of recovery or subrogation that CONSULTANT or the insurer may have against CITY, or its representatives, or both;
- (F) CONSULTANT's insurance policy applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or suit is brought, except that the naming of multiple insureds will not increase an insurance company's limits of liability;
- (G) CONSULTANT's insurance policy applies to a claim or suit brought by an additional insured against a Named Insured or other insured, arising out of bodily injury, personal injury, advertising injury, or property damage; and
- (H) CITY is not liable for a premium payment or another expense under CONSULTANT's policy.

**1.5** At any time during the duration of this Agreement, CITY may do any one or more of the following:

- (A) Review this Agreement's insurance coverage requirements; or
- (B) Require that CONSULTANT:
  - (1) Obtain, pay for, and maintain more or less insurance depending on CITY's assessment of any one or more of the following factors:
    - (a) CITY's risk of liability or exposure arising out of, or in any way connected with, the services of CONSULTANT under this Agreement;
    - (b) The nature or number of accidents, claims, or lawsuits arising out of, or in any way connected with, the services of CONSULTANT under this Agreement; or
    - (c) The availability, or affordability, or both, of increased liability insurance coverage;
  - (2) Reduce or eliminate a deductible or self-insured retention as it applies to CITY; or
  - (3) Obtain, pay for, and maintain a bond (as a replacement for an insurance coverage) from a California corporate surety, guaranteeing payment to CITY for liability, or costs, or both, that CITY incurs during CITY's investigation, administration, or defense of a claim or a suit arising out of this Agreement.

**1.6** CONSULTANT shall maintain the insurance policy without interruption, from the Project's commencement date to the Final Payment date, or until a date that CITY specifies for any coverage that CONSULTANT must maintain after the Final Payment.

**1.7** CONSULTANT's insurance company or self-insurance administrator shall mail CITY written notice at least thirty (30) days in advance of the policy's or the self-insurance program's cancellation, termination, non-renewal, or reduction in coverage.

**1.8** CONSULTANT shall not allow any insurance to expire, cancel, terminate, lapse, or non-renew. Twenty-one (21) days before its insurance policy's expiration, cancellation, termination, or non-renewal, CONSULTANT shall deliver to CITY evidence of the required coverage as proof that CONSULTANT's insurance policy has been renewed or replaced with another insurance policy which, during the duration of this Agreement, meets all of this Agreement's insurance requirements.

**1.9** At any time, upon CITY's request, CONSULTANT shall furnish satisfactory proof of each type of insurance coverage required— including a certified copy of the insurance policy or policies; certificates, endorsements, renewals, or replacements; and documents comprising CONSULTANT's self-insurance program— all in a form and content acceptable to the City Attorney or City's Risk Manager.

**1.10** If CONSULTANT hires, employs, or uses a Subconsultant to perform work, services, operations, or activities on CONSULTANT's behalf, CONSULTANT shall ensure that the Subconsultant:

- (A) Meets, and fully complies with, this Agreement's insurance requirements;
- (B) Delivers to CITY— for its review, or approval, or both— all insurance policies, certificates, and endorsements that this Agreement requires; and
- (C) Furnishes CITY, at any time upon its request, with a complete copy of the Subconsultant's insurance policy or policies for CITY's review, or approval, or both.

**1.11** CONSULTANT's failure to comply with an insurance provision in this Agreement constitutes a breach upon which CITY may immediately terminate or suspend CONSULTANT's performance of this Agreement, or invoke another remedy that this Agreement or the law allows. At its discretion, CITY may obtain or renew the insurance, and CITY may pay all or part of the premiums. Upon demand, CONSULTANT shall repay CITY for all sums or monies that CITY paid to obtain, renew, or reinstate the insurance, or CITY may offset the cost of the premium against any sums or monies that CITY may owe CONSULTANT.

## INSURANCE REQUIREMENTS

### *PROFESSIONAL SERVICES AGREEMENT*

#### **CONSULTANT'S SUBMITTAL OF CERTIFICATES AND ENDORSEMENTS**

**1.1** CONSULTANT shall have its insurance carrier(s) or self-insurance administrator(s) complete and execute the following insurance documents, unless an exception below applies. When CONSULTANT signs and delivers the Agreement to CITY, CONSULTANT also shall deliver:

- (A) A "certificate of insurance" for each required liability insurance coverage;
- (B) Additional Insured Endorsement for "General Liability/Automobile Liability", unless this Agreement does not require CONSULTANT to obtain and maintain Commercial General Liability coverage, Businessowners Liability coverage, or Automobile Liability coverage;
- (C) A subrogation endorsement, "**Waiver of Transfer to Rights of Recovery Against Others.**" for Commercial General Liability coverage or Businessowners Liability coverage;
- (D) A "certificate of insurance" for Workers' Compensation insurance; or  
     If CONSULTANT is self-insured for workers' compensation, a copy of the "Certificate of Consent to Self-insure" from the State of California; or  
     If CONSULTANT is lawfully exempt from workers' compensation laws, an "Affirmation of Exemption from Labor Code §3700" form;
- (F) A complete copy of CONSULTANT's Professional Liability insurance policy, including all forms and endorsements attached to it.

**1.2** CITY will neither sign this Agreement nor issue a "Notice to Proceed" until the City Attorney or City's Risk Manager has reviewed and approved the insurance documents. CITY's decision as to the acceptability of all insurance documents is final. Unless CONSULTANT obtains CITY's written approval, CITY will not permit or allow a substitution of an insurance policy, or a change in a certificate's or an endorsement's form and content, or both.

#### **INSURANCE OBLIGATION IS SEPARATE FROM INDEMNITY OBLIGATION**

**2.1** This Agreement's insurance provisions:

- (A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and
- (B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.

## 21.0 Attachment C – NONDISCLOSURE AGREEMENT

### NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”) is effective as of \_\_\_\_\_, 2020 (“Effective Date”) by and between the City of Glendale, through its Glendale Water & Power Department, with its principal place of business at 141 N. Glendale Ave., Glendale, CA 91206 (“City”) and \_\_\_\_\_, a \_\_\_\_\_ with its principal place of business at \_\_\_\_\_ (“Company”), and, and sets forth the terms and conditions for the protection, use, and disclosure of Confidential Information as defined below.

1. **Purpose.** City has issued a Request for Proposals for an Owner’s Engineer for Solar + Storage Development of City of Glendale Properties and DER Penetration Impact Studies (the “proposed project”). In order for Company to provide the City with a proposal for the proposed project, Company has requested that City release to it certain information that is non-public, confidential or proprietary in nature (“Confidential Information”).
2. **Non-Confidential Information.** Confidential Information shall not include any information that is: (a) publicly known at the time of disclosure or later becomes publicly known through no breach of this Agreement by the Company or its employees; (b) lawfully in the Company’s possession, without an obligation of confidentiality, prior to disclosure under this Agreement; (c) received independently by the Company from a third party who was free to lawfully disclose such information to the Company; or (d) independently developed by the Company without the use of Confidential Information as evidenced by the Company’s business records; or (e) required to be disclosed by law, provided that Company provides advance notice to the City of any such required disclosure such that the City can seek a remedy to prevent or limit the disclosure.
3. **Non-Disclosure Obligations.** Company shall at all times maintain the confidentiality of the Confidential Information. Company shall use Confidential Information only as necessary for the Permitted Use under this Agreement. Company shall not distribute, disclose, or disseminate Confidential Information to anyone except its employees and agents with a need to know and who have been informed of the confidential nature of the Confidential Information and have agreed to be bound by the terms of this Agreement. Company will be responsible for disclosures of Confidential Information made by its employees and agents in violation of this Agreement.
4. **Protection.** Company shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the data from unauthorized access, destruction, use, modification, or disclosure.
5. **Permitted Use.** Company may use the Confidential Information only for the purpose of (i) preparing a proposal to serve as Owner’s Engineer for the LNTP Phase of the proposed project and (ii) negotiating a potential contract to serve as Owner’s Engineer for the LNTP Phase; and only during the Term of this Agreement (the “Permitted Use”). This Agreement does not grant Company any rights to or ownership in the Confidential Information. Company is prohibited from using the Confidential Information for any purpose other than the Permitted Use.

6. **Term.** This Agreement shall continue in force for one year from the Effective Date; provided, however, the Company's obligation to preserve, protect and destroy the Confidential Information and Company's indemnity obligations shall continue without expiration or termination.
7. **No Warranty; No Obligation.** Information is provided "as is." City makes any warranties, express or implied, regarding the accuracy or completeness of the Confidential Information. Neither party has any obligation under this Agreement to purchase from or furnish to the other any products or services, or to enter into any other agreement.
8. **Return of Property.** Upon the City's written request, all or any requested portions of Confidential Information will be promptly returned to the City or destroyed, and Company will provide the City with written certification stating that such Confidential Information has been returned or destroyed. If the Company disposes or arranges for the disposal of the Confidential Information it shall do so by (1) shredding, (2) erasing, or (3) otherwise modifying the data in those records to make it unreadable or undecipherable through any means.
9. **Indemnity and Remedies.** **To the fullest extent permitted by law, Company shall indemnify, defend, and hold the City, its officers, agents and employees harmless from any claim, damage, loss, cost or expense arising out of Entity's failure to comply with this Confidentiality Agreement.** The parties hereby acknowledge and agree that money damages would not be a sufficient remedy for any breach of this Agreement and that the City shall be entitled to seek injunctive or other equitable relief to remedy any such breach or threatened breach by Company. Such remedy shall not be deemed to be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity.
10. **Entire Agreement.** This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral or written agreements and understandings. This Agreement shall not be modified or changed in any manner except in a writing signed by both parties.
11. **No Assignment.** Neither party may delegate its obligations hereunder or assign its rights without the prior written consent of the other party. Any purported assignment or delegation of this Agreement will be void and deemed a breach of this Agreement.
12. **No Waiver.** No failure or delay by any party in exercising any right shall operate as a waiver, nor shall any single or partial exercise of a right preclude any further exercise of any other right.
13. **Governing Law; Venue.** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of law. Venue for any dispute resulting in litigation shall be in the appropriate state court in Los Angeles County, California or Central District of California for federal court.
14. **Severability.** If any provision of this Agreement is deemed unenforceable, all remaining provisions will continue in full force and effect.
15. **Notices.** All notices and information pertaining to this Agreement shall be sent to the parties at the



addresses provided above. Either party may change its designation at any time by written notice to the other party.

**16. Signatures.** The Company warrants that the signatory below has authority to bind the Company. The use of facsimile or PDF signatures for the execution of this Agreement shall be legal and binding and shall have the same force and effect as if originally signed.

**Proposer Name:**\_\_\_\_\_

**By:**\_\_\_\_\_

**Printed Name:**\_\_\_\_\_

**Title:** \_\_\_\_\_